

Application GRANTED.

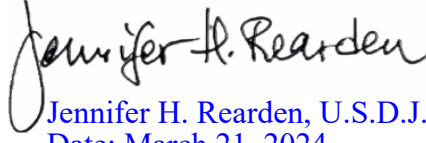
The Clerk of Court is directed to terminate  
ECF No. 60.

August 10, 2023

VIA ECF

Hon. Jennifer H. Rearden  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

SO ORDERED.

  
Jennifer H. Rearden, U.S.D.J.  
Date: March 21, 2024**Re: Rokt Corp. et al. v. AdsPostX, Inc. et al., Case No. 1:23-cv-02081-JHR  
Requests for Leave to File Sherer Declaration Exhibits A Through C Under Seal and File  
Redacted Supplemental Memorandum**

Dear Judge Rearden:

We represent Plaintiffs Rokt Corp. and Rokt Pte Ltd. (collectively, "Rokt") in the above-referenced action. We write pursuant to Rule 9.C of Your Honor's Individual Rules and Practices in Civil Cases, Standing Order 19-MC-583, and Section 6 of the District's Electronic Case Filing Rules and Instructions to request leave to file Exhibits A through C to the Declaration of Tomasita L. Sherer, dated August 10, 2023 ("Sherer Declaration"), under seal. We also write to request leave to file Rokt's Supplemental Memorandum of Law in Further Support of its Motion for a Preliminary Injunction ("Supplemental Memorandum") in redacted form.

For the first request, courts in this Circuit have routinely recognized that the demonstration of a valid need to protect the confidentiality of proprietary business information is a legitimate basis to rebut the public's presumption of access to judicial documents. See, e.g., *Lexington Furniture Indus., Inc. v. Lexington Co.*, AB, No. 19-CV-6239 (PKC), 2021 WL 1143694, at \*2 (S.D.N.Y. Mar. 24, 2021); *Hanks v. Voya Ret. Ins. & Annuity Co.*, No. 16-CV-6399 (PKC), 2020 WL 5813448, at \*2 (S.D.N.Y. Sept. 30, 2020). Rokt designated 14 documents containing its trade secrets and proprietary business information as Highly Confidential – Attorneys' Eyes Only and designated one document containing its proprietary business information as Confidential under the Protective Order entered in this action. See ECF No. 38. Rokt seeks to submit these documents to the Court in a single composite exhibit, Exhibit A to the Sherer Declaration, in further support of its Motion for a Preliminary Injunction. As Rokt seeks to maintain a single exhibit containing its trade secrets and property business information under seal, Rokt submits that its request is narrowly tailored to serve that interest. See *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119–20 (2d Cir. 2006).

Rokt also seeks leave to file Exhibits B and C to the Sherer Declaration under seal, which are two composite exhibits that include documents produced by third-party Groupon, Inc. ("Groupon") and Defendants, respectively, during expedited discovery. Composite Exhibit B includes 11 documents that Groupon designated as Highly Confidential – Attorneys' Eyes Only and four documents that Groupon designated as Confidential under the Protective Order. Composite Exhibit C includes 32 documents that Defendants designated as Highly Confidential – Attorneys' Eyes Only and 22 documents that Defendants designated as Confidential under the Protective Order. Although Rokt is seeking leave to file Exhibits B and C under

seal based on the designations by Groupon and Defendants, Rokt joins in this request given that many of the documents reference Rokt's trade secrets or proprietary business information.

Additionally, Rokt seeks leave to redact portions of its Supplemental Memorandum that expressly quote or reference language from the documents contained in Exhibits A through C to the Sherer Declaration. Many of the redactions concern proprietary or trade secret information, which, as Your Honor's Individual Rules and Practices in Civil Cases acknowledge, do not require Court approval for redaction.<sup>1</sup> Aside from the redaction of proprietary or trade secret information, the other, limited redactions are appropriate so as to not publicly disclose information that has been designated as Confidential or Highly Confidential – Attorneys' Eyes Only and filed under seal.

Rokt has met and conferred with counsel for Groupon and Defendants regarding its request to file Exhibits A through C to the Sherer Declaration under seal and request to file its Supplemental Memorandum in redacted form. Counsel for Groupon does not oppose Rokt's requests, and is aware of its obligation to file a letter, within three business days of this letter-motion. Counsel for Defendants consents to the filing of Defendants' designated documents under seal, and neither consents to nor opposes Rokt's request for leave to file Rokt-designated and Groupon-designated documents under seal. Defendants indicated that they reserve their right to challenge such designations at the appropriate time.

We thank the Court for its attention to this matter.

Very truly yours,



Tomasita L. Sherer

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<sup>1</sup> Rokt redacted two paragraphs in the Supplemental Declaration of Ashley Firmstone, submitted with the Supplemental Memorandum, pursuant to Rule 9.C of Your Honor's Individual Rules and Practices in Civil Cases as the paragraphs contain commercially sensitive and proprietary business information.